

**Legal submissions in support of a lawful development certificate at Boundary Place,
Long House Land, Warninglid, Haywards Heath, RH 17 5TE (“Property”)**

1 Introduction

1.1 This Certificate of Lawfulness for Existing Use and Development (“**CLEUD**”) application (“**Application**”) is sought on the basis that the works listed below were substantially completed at the Property more than four years ago:

1.1.1 addition of a small TV / snug room on the ground floor;

1.1.2 construction of a new car port;

1.1.3 ground floor extension on the main house facing the garden; and

1.1.4 canopies on the annex and main house, both facing the garden.

together the “**Works**”

1.2 The Application is made by Mr Simon Hague who is the registered owner of the Property (“**Applicant**”) on the basis that the Works are immune from enforcement action and eligible for the grant of a CLEUD pursuant to section 191 of the Town and Country Planning Act 1990 (as amended) (“**TCPA**”).

1.3 The onus is on the Applicant to demonstrate that, on the balance of probabilities, the Works were substantially completed over four years ago. Mr Hague has provided a statutory declaration which confirms his knowledge of when the Works were completed. Mr Hague’s statutory declaration also provides evidence attached as exhibits.

2 Planning History and Background

2.1 The planning permission relevant to the establishment of the current dwelling at the Property has the reference 10/00310/FUL granted 14 April 2010 for *Demolish existing conservatory and double garage. Reclad house in vertical cedar boards and fit replacement windows and external doors. New annex to house additional accommodation and sustainable energy systems.*

2.2 Google earth imagery confirms that the existing dwelling was constructed prior to 2012. Since its construction the existing dwelling has been used continuously for residential purposes. The original dwelling and its use for residential purposes are therefore lawfully established. The areas of the Property covered by the Works are used for purposes ancillary to the principal dwellinghouse and the use of these areas is therefore also lawful.

3 Statutory Framework

3.1 The relevant law for determining a CLEUD application is contained in section 191 of the TCPA. Under section 191(2)(a)

“Operations are lawful at any time if no enforcement action may be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason).”

- 3.2 To be immune from enforcement action by virtue of section 171B of the TCPA, the Applicant must satisfy the time limits as set out below:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of—

(a) in the case of a breach of planning control in England, ten years beginning with the date on which the operations were substantially completed, and

(b) in the case of a breach of planning control in Wales, four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of—

(a) in the case of a breach of planning control in England, ten years beginning with the date of the breach, and

(b) in the case of a breach of planning control in Wales, four years beginning with the date of the breach.

- 3.3 Section 171B of the TCPA was amended by the Levelling -up and Regeneration Act 2023 which came into effect on 25 April 2024. The amendments set a blanket 10-year enforcement period for all breaches of planning control. However, transitional provisions were also put in place as set out under The Planning Act 2008 (Commencement no. 8) and Levelling up and Regeneration Act 2023 (Commencement no. 4 and Transitional Provisions) Regulations 2024. The effect of the transitional provisions is that the 10 year time limit does not apply to a breach of planning control referred to in section 171(B)(1) of the TCPA where the operations were substantially completed before the date that the new enforcement periods came into effect (25 April 2024).

- 3.4 Here, section 171B(1) is relevant to the CLEUD application as the Works amount to operational development under section 55 of the TCPA. The Works were substantially completed on 14 April 2022 and so the transitional arrangements set out above apply and the relevant immunity period is four years.

4 Evidence of substantial completion over four years ago

- 4.1 Having established that the relevant immunity period for the works is four years, per section 171B of the TCPA 1990 the evidence must demonstrate that the works were substantially completed at least four years ago. The burden of proof lies with the Applicant to demonstrate that, on the balance of probabilities, no enforcement action may be taken and therefore that the CLEUD ought to be granted. As per the case *Gabbittas v Secretary of State for the Environment and Newham Borough Council* [1985] JPL 630 good reasons must be provided for the evidence provided by the Applicant to be set aside, particularly in the absence of any evidence to the contrary on the part of the Council. Mr Hague has provided a statutory declaration and exhibits in support of this CLEUD application to demonstrate the date that the Works were substantially completed.

- 4.1.1 In July 2021 Mr Hague engaged A Room in the Garden to undertake the Works. This is confirmed by a letter attached to Mr Hague's statutory declaration dated 16 July 2021.
- 4.1.2 Mr Hague has also attached a letter from A Room in the Garden which confirms completion of the ground floor extension and canopies on 14 April 2022. The final invoice from A Room in the Garden is also dated 14 April 2022.
- 4.1.3 The historic google earth imagery attached to Mr Hague's statutory declaration identifies that the TV room and car port were both completed by 23 March 2022.
- 4.2 There are a number of appeal decisions whereby the Inspector has given statutory declarations "substantial" or "significant" weight, including in the determination of lawful development certificate applications.¹ In one of these decisions, the Inspector found that it is appropriate to attach "substantial" weight to statutory declarations where the information contained in them is "*precise and unambiguous and where they have been properly declared and witnessed*".²
- 4.3 The evidence presented by Mr Hague is specific and consistent and clearly confirms that the Works were substantially completed more than four years ago. As Mr Hague is the landowner of the Property who commissioned and carried out the Works himself, a high degree of reliability can be placed on his statutory declaration, specifically the date that the works were completed. In keeping with the principle of appeal decisions referred to above, the Council should attribute significant weight to Mr Hague's statutory declaration given it is first-hand evidence, it is precise and unambiguous and it has been properly declared and witnessed.

5 Conclusion

- 5.1 Section 191(4) of the TCPA 1990 provides:

If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

- 5.2 For the reasons given above this CLEUD application should be granted.

Russell-Cooke LLP

14 April 2026

¹ See APP/T5150/X/3138588 (2016), APP/L5810/C/3172432 (2018) and APP/L5240/X/22/3301847 (2023) for example.

² Appeal decision with reference APP/L5810/C/3172432.